

### REMARKS

Applicants respectfully request reconsideration and then allowance. Accordingly, the May 27, 2003 Office Action did not address all claims presented for examination.

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Applicants have not received an action on previously submitted claims 20-24.

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The PTO's web site that explains application of 35 U.S.C. §103(c), see the question and answer identified as B, D3 and E3. This should be considered in view of the Office Action at the top of page 3.

Amended claim 18 is consistent with claim language in other claims already considered by the Examiner. It is therefore respectfully submitted that the claim amendment does not raise a new issue, does not present new matter, and may reduce the possibility of having delayed prosecution via an appeal.

New claim 25 finds basis in the specification in the description throughout, although the text at pages 6 and 7 is noted.

Claims 3, 8 and 17 have been canceled without prejudice.

The present invention relates to a sugar-free hard comestible coating having a hard, at least one layer of which can be prepared from a liquid syrup comprising a mixture of sorbitol and erythritol. The liquid syrup can be applied to a core (or coated core) and then dried to yield the hard coating.

The Rosenplenter reference accordingly does not describe a sugar-free hard-coated comestible consisting of a hard coating and an edible, chewable and/or pharmaceutical core characterized in that at least one layer of the hard coating is obtained by applying a liquid mixture of sorbitol and erythritol to a core. The Rosenplenter reference does not

disclose or describe such a layer as homogeneous nor that such a liquid mixture of sorbitol and erythritol would form a homogeneous layer.

The hard coating prepared according to the method of Rosenplenter is heterogeneous and has large erythritol crystals randomly on the sorbitol matrix. This is undeniably shown in the Declaration of record and in a Comparative Example in the specification at pages 10-11. It is considered the difference relates to the method of which Rosenplenter et al. prepared their product.

The cited Rosenplenter reference also does not refer to or describe applying a liquid mixture or a syrup of sorbitol and the erythritol to a core or a previously coated core.

The Rosenplenter reference does not describe, for instance, a sugar-free comestible in which a hard coating around a core has at least one layer obtained by applying a liquid mixture or a syrup comprised of sorbitol and erythritol to the core whereby the layer has a homogeneous distribution of the erythritol and sorbitol.

Instead, the Rosenplenter reference refers to applying sorbitol to cores (column 2, lines 55 *et seq.*), and separately, physically applying solid crystalline materials on the sorbitol coated cores. The sorbitol forms a thin film on the surface of the cores (column 2, lines 62-63) and after the cores are moistened by the sorbitol, a small portion of crystalline xylitol, Isomalt, maltitol or erythritol (granulometry) is brought on the surface of the thin film of sorbitol that 'moistened' the cores (column 2, line 67 to column 3, line 7). This is entirely consistent with the Example at column 3, lines 62-66 (sorbitol applied and separately crystalline erythritol applied on top of the sorbitol layer). This does not describe the layer as recited in any of the pending claims.

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Reply to Office Action of May 27, 2003


The Rosenplenter reference therefore neither describes a process for preparing sugar-free hard-coated comestibles by applying a liquid coating syrup to a moving mass of the cores in a rotating pan, wherein the liquid coating syrup as applied comprises a mixture of sorbitol and erythritol in which, on a dry substance basis, the mixture comprises between 1% to 50% w/w erythritol, nor describes a product having the characteristics of the present claimed inventions.

Having addressed all matters, the Applicants submit their case merits allowance.

Respectfully submitted,

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By: \_\_\_\_\_



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